



Committee of Seventy

Statement of the Committee of Seventy in Response to the Preliminary Recommendations of the Mayor's Advisory Task Force on Ethics and Campaign Finance Reform

May 5, 2009

The Committee of Seventy applauds the Task Force for taking on this complex and politically sensitive task with great passion and courage. The quality and breadth of your preliminary recommendations forecast a final report that will be deep and comprehensive.

If enacted, they will go a long way towards fulfilling the mission set out in Mayor Nutter's Executive Order appointing this group: recommending changes in campaign finance and ethics regulations to "further instill honesty, transparency and accountability throughout city government."

The Committee of Seventy is a non-partisan organization fighting for clean and effective government, fair elections and a better informed citizenry in Philadelphia and the region. On January 10, 2009, we testified at the first public hearing convened by this Task Force and also submitted a 79-page report containing 28 specific recommendations to preserve and strengthen Philadelphia's campaign finance law and to enact tough ethical controls extending across city government.

We understand that the proposals in your final report could change based on what you hear today and in other discussions. Our purpose in preparing this statement, and in testifying, is to urge your adherence to the preliminary recommendations and to encourage your continuing efforts to strengthen them where necessary and make sure they are successfully achieved.

We are particularly impressed that the preliminary recommendations reflect the consensus of the nine Task Force members, each of whom was named by a different appointing authority. Your agreement sends an unmistakable and strong message about the significance and urgency of ethics and campaign finance reforms in Philadelphia. And, because the recommendations were reached after significant opportunity for public comment, they should give our elected officials the political will they need to implement them.

Implementation is the real battle. While the final report may mark the official conclusion of the Task Force's charge, we urge each of you – as individuals even if not as a formally organized group – to stay in the fight.

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You have taken your charge seriously and deserve a serious response.

The Committee of Seventy has shared with the Task Force its concern that issuing a final report in the middle of an acrimonious budget debate could result in it being ignored entirely or pushed aside because of fiscal distractions. Worse still, your recommendations could be used in horse-trading in exchange for budget votes.

To avoid this, your challenge is to present powerful recommendations that will give Mayor Nutter and City Council an unavoidable rationale to act – and to do so this fall. Your recommendations should not come to a standstill because of the economic crisis facing the city. As we said in our January report, it is in hard times that accountable, transparent and responsive government is most important and public trust in government must be the greatest.

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We believe your report will have more credibility if it prioritizes the recommendations that are most imperative for short-term action and those that are more appropriate for longer-term

consideration. To some extent, this calculation may depend on the legal mechanisms required to enact the reforms: Amending the Philadelphia Code is a quicker process than amending the Home Rule Charter.

However, in Seventy's view, the most relevant consideration is which reforms are the most compelling. Here are our picks:

- The campaigns for the 2011 Mayoral and City Council races are already underway. Fundraisers are being held and some individuals have already declared their candidacies. Establishing a public funding system, although important, should take a back seat to strengthening the City's campaign finance ordinance so that all prospective 2011 candidates know precisely what is expected of them and their campaign committees, and the consequences for non-compliance.
- The Task Force properly places the highest importance on an easily searchable electronic database to improve public access to campaign finance reports. As of mid-day today, with a filing deadline approaching, the search function on the City's system was "disabled for the duration of the filing cycle." Glitches happen. But even when fully operable, Philadelphia's system is cumbersome and hard to navigate. The technology exists to do this right. This should rise to the top in weighing the competing costs of significant projects.
- Lobbying is a major business here. Yet, as your preliminary recommendations point out, Philadelphia is the largest city in the nation without some form of registration for lobbyists or lobbying firms. The absence of any regulations on lobbyists continues to lead to public scandals that stain the City's reputation. This must be fixed immediately.
- Ethics rules should be uniform across all levels of city government. Your preliminary recommendations point out several areas where they are not: gift acceptance policies and political activity restrictions. Another priority should be adopting consistent rules that apply to everyone who works in City government – paid and unpaid, elected or

appointed – unless clear and justifiable reasons for exceptions are articulated and made public.

- A number of your campaign finance and ethics recommendations require increased vigilance and enforcement by the Board of Ethics. Already the Board is operating on a shoestring. Its Chair, Richard Glazer, testified at City Council’s budget hearings that the Board’s FY2010 budget of \$810,000 (20% less than the \$1 million guaranteed in the Charter for the first two fiscal years) would impact the Board’s ability to conduct core investigation and litigation activities. Since more than a few elected officials have been penalized by the Board for violations of City law, including former and current City Council members, the budget crisis will provide a convenient excuse to cripple the Board’s ability to effectively carry out your recommendations. You must make clear that preventing and punishing abuse is a core function of City government.

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The Committee of Seventy overwhelmingly supports the Task Force’s recommendations. Here are some thoughts on specific ways to make them even stronger.

- **Election Cycle.** Tying the receipt of campaign contributions to an election cycle, rather than to a calendar year, makes it even more imperative to hold the line on reasonable dollar limits on campaign contributions, particularly if the primary and general election are treated separately, as you recommend. However, by taking no position on whether the dollar limits should be increased or decreased, you are giving Council permission to significantly raise the caps.

We urge you to set definitive limits in your final report. Since you are recommending that Philadelphia adopt the campaign finance model applicable to federal candidates, it would make sense to also recommend the federal contribution limits. At the very least, the Task Force should explicitly spell out an acceptable uppermost cap so that there is no

misunderstanding that you intend to keep the limits reasonable to avoid the potential for undue influence.

- **Attribution Rules.** It is not surprising that the Task Force was unable to reach an acceptable recommendation on how to fix the attribution rules applicable to firms and companies seeking no-bid City contracts. The rules themselves are confusing and, as your preliminary recommendations point out, may be interpreted to extend too widely to persons whose contributions are attributed to the caps (e.g., spouses).

You should not feel constrained to make a premature recommendation. Unlike your other campaign finance proposals that relate directly to the conduct of an election (e.g., election cycle, definition of candidate), there is no urgency to changing the current attribution limits. Keeping them intact is far preferable to recommending a solution that may turn out to be less than ideal. Firms and companies seeking no-bid contracts have managed to figure out how to abide by them so that they are not rendered ineligible for City business. Your final report might recommend that the Mayor convene an Ad-Hoc group comprised of representatives of these organizations to address how to make them less complicated and onerous.

- **Public Funding.** We applaud your recommendation to convene a Select Citizens Commission to consider public funding of municipal elections. We urge you to reiterate in your final report that your recommendation for any favorable proposal to carry an effective date of the 2013 local elections pertains *only* to public funding. There should be no confusion that recommendations that directly relate to strengthening the current campaign finance ordinance should be dealt with in time for the next Mayor and City Council elections in 2011.
- **DROP.** The Committee of Seventy supports prohibiting elected officials from participating in the City's Deferred Retirement Option Plan. We also continue to oppose a 24-hour retirement by reelected officials in order to receive their DROP benefit, notwithstanding the recent opinion by the City Solicitor that this practice is legal. While

Seventy did not raise the DROP issue in its January report, we are pleased that the Task Force found DROP as it relates to elected officials sufficiently connected to ethics to include it in your preliminary recommendations.

- **Ethics Watchdogs.** The Task Force urges providing the Board of Ethics with additional financial resources and staff to carry out a number of increased responsibilities outlined in the preliminary recommendations. We suggest bundling those areas of responsibilities in your final report to reinforce this point.

We hope your final report will also clearly delineate the separate duties of the Board of Ethics, Chief Integrity Officer, the City Controller and the Inspector General, whose office you specifically recommend preserving as functionally independent of the Mayor and Council. This would help deflect the suggestion raised during the budget hearings that these offices perform some duplicate functions and, particularly in the case of the Chief Integrity Officer, could be “redundant.”

- **Political Activity Restrictions.** The “Bonusgate” scandal in Harrisburg reminds all of us that the line separating legislative and campaign work is too often and too easily crossed. A natural response might be to toughen Philadelphia’s already overly strict off-the-job political activity limitations. We commend the Task Force for not taking that path. We are willing to take a gamble that relaxing the current rules will have the desired effect of confining political activities to after-work hours where they belong. Thorough ethics training by the Chief Integrity Officer will help prevent abuses, and enforcement by a better resourced Board of Ethics should uncover wrongdoing.

In addition, applying the same regulations to all City employees – including Council’s staff – is a more rational approach than the patchwork of political activity restrictions that currently exist.

- **Disclosing the Relationship between Public Officials and Non-Profits.** Federal investigations about the misuse of funds by non-profit organizations linked to public

officials (e.g., Citizens Alliance and Philadelphia Safe and Sound) demand shedding light on the relationship between public officials and non-profits receiving taxpayer dollars. We urge the Task Force to include in its final report a recommendation for regulating the flow of public money to non-profit organizations created or controlled (directly or indirectly) by public officials who have the ability to make or to influence funding decisions. Adopting a rule similar to the Pennsylvania House of Representatives' Rule 47ⁱ would be a step in the right direction.

The Committee of Seventy offers its support to the Task Force as it prepares its final report. Again, we commend you not only your preliminary recommendations, but for a review process that has been comprehensive, transparent and receptive to significant public input.

Mayor Nutter and City Council President Anna Verna stood side-by-side when this group was assembled last October. We hope they will join together again in embracing your recommendations and exercising the leadership to swiftly enact them in the fall.

ⁱ PA House of Representatives, Rule 47: A member shall not create, maintain or cause to be created or maintained a legislative nonprofit organization. A "legislative nonprofit organization" means a nonprofit corporation or other entity whose primary purpose is to receive funds under the General Appropriations Act or another appropriations act at the discretion or by reason of the influence of a member for the use at the direction or discretion of the member. The Ethics Committee shall issue to any member upon the member's request a legislative nonprofit organization opinion with respect to the member's duties under this rule. The Ethics Committee shall, within 14 days, issue the legislative nonprofit organization opinion. No member who acts in good faith on a legislative nonprofit organization opinion issued to that member by the Ethics Committee shall be subject to any sanctions for so acting if the material facts are as stated in the legislative nonprofit organization opinion request. The Ethics Committee's legislative nonprofit organization opinions shall be public records and may from time to time be published, except that the member requesting the legislative nonprofit organization opinion may require that the legislative nonprofit organization opinion contain deletions and changes necessary to protect the identity of the persons involved.